

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

EFREN GUTIERREZ, :  
Petitioner, : Case No. 3:11cv00268  
vs. : District Judge Walter Herbert Rice  
STATE OF OHIO, : Magistrate Judge Sharon L. Ovington  
Respondent. :  
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**DECISION AND ENTRY**

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The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #3), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that Plaintiff has filed a Notice (Doc. #24) informing the Court that she does not object to the Report and Recommendations, and further noting that the time for any party to file objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby **ORDERED** that:

1. The Report and Recommendations filed on August 10, 2011 (Doc. #3) is ADOPTED in full;
2. Efren Gutierrez's Petition for Writ of Habeas Corpus is DENIED and DISMISSED without prejudice, and Gutierrez's next federal habeas petition, if any, shall not be deemed successive under 28 U.S.C. §2244(b);

3. Gutierrez's request for a hearing is DENIED as moot;
4. A certificate of appealability not issue under 28 U.S.C. §2253; and
5. The case is terminated on the docket of the Court.

Walter Herbert Rice

Walter Herbert Rice  
United States District Judge